



PUBLIC NOTICE

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OFFICE OF MANAGING DIRECTOR ANNOUNCES MITIGATION MEASURES FOR EMERGENCY BROADBAND BENEFIT PROGRAM ENROLLMENTS BASED ON THE COMMUNITY ELIGIBILITY PROVISION

WC Docket No. 20-445

On February 25, 2021, the Federal Communications Commission (Commission) unanimously adopted a Report and Order that established the Emergency Broadband Benefit (EBB) Program, a \$3.2 billion federal initiative created by Congress in the Consolidated Appropriations Act, 2021 (Consolidated Appropriations Act),¹ to help lower the cost of internet for eligible households during the emergency period related to the COVID-19 pandemic.² The Consolidated Appropriations Act further outlines specific eligibility criteria for the EBB Program, including, but not limited to, a household member's participation in a free or reduced price school lunch or breakfast program.³ In the *EBB Program Order*, the Commission concluded that households with a student enrolled in a school or school district participating in the USDA National School Lunch Program's Community Eligibility Provision (CEP) could qualify for the EBB Program.⁴

The Consolidated Appropriations Act also provided the Commission's Office of Inspector General (OIG) responsibility for compliance oversight of the EBB Program. On November 22, 2021, the OIG issued an advisory raising concerns with respect to Program enrollments based on CEP.⁵ As intended by the law, the Commission has been and remains committed to continuing to working lockstep and collaboratively with the OIG to ensure appropriate oversight of the EBB Program. Consistent with these efforts, in this Public Notice, OMD announces measures to mitigate any harm to the EBB Program. These measures include:

- Directing the Universal Service Administrative Company to modify the EBB Program application portal to require applicants seeking to qualify for the EBB Program based on attendance at a USDA National School Lunch Program's CEP school to submit school enrollment documentation in addition to providing the name of the CEP school;

¹ Consolidated Appropriations Act, 2021, Pub. L. No. 116-260, div. N, tit. IX, § 904, 134 Stat. 1182, 2130 (2020), available at <https://www.congress.gov/bill/116th-congress/house-bill/133/text> (Consolidated Appropriations Act).

² Consolidated Appropriations Act, 2021, div. N., tit. IX, § 904(a)(6)(A-E).

³ *Id.* § 904(a)(6)(B).

⁴ *Emergency Broadband Benefit Program*, WC Docket No. 20-445, Report and Order, 36 FCC Rcd 4612, 4638-39, paras. 55-56 (2021) (*EBB Program Order*).

⁵ USDA, Food and Nutrition Service, Child Nutrition Programs, Community Eligibility Provision, <https://www.fns.usda.gov/cn/community-eligibility-provision>.

- Conducting program integrity reviews of households enrolled through this mechanism to ensure continued eligibility;
- Issuing a Public Notice notifying providers and consumers of this change and specifying additional steps needed to demonstrate eligibility for the EBB Program;
- Referring bad actors to the FCC's Enforcement Bureau to investigate and safeguard consumers;
- Reviewing our programmatic audit procedures to ensure proper checks are in place to identify similar concerns in the future; and
- Recouping improperly disbursed funds as a result of any EBB Program payments to unqualified CEP enrollees.

The Managing Director continues to emphasize and remind providers participating in the EBB Program that they must ensure they are complying with the EBB Program requirements.⁶ Failure to comply with these rules may result in administrative forfeitures or other penalties.⁷

For further information, please contact Thomas Buckley, Office of Managing Director at Thomas.Buckley@fcc.gov or (202) 418-0725.

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⁶ See *Broadband Providers Must Apply the Emergency Broadband Benefit Discount Prior to Claiming Reimbursement and are Reminded of Measures to Protect Against Waste, Fraud, and Abuse*, Public Notice, WC Docket No. 20-445, DA 21-1018 (Aug. 20, 2021).

⁷ *Id.* at p. 2; See *Emergency Broadband Benefit Program*, Report and Order, 36 FCC Rcd 4612, 4678-79, para 141 (2021). “[W]e will use the Commission’s existing, statutorily permitted enforcement powers to initiate investigations and impose administrative forfeitures. In addition, we will apply the Commission’s suspension and debarment rules currently applicable to the USF program to EBB Program participating providers. We will also withhold EBB Program funds from participants found to be in violation of the EBB Program rules, if appropriate, and will also seek to recoup improperly disbursed funds, in addition to appropriate enforcement penalties.” *Id.* (citation omitted).